

Libraries and mass digitisation: Intellectual property challenges: The Google Book Settlement: Love it or Leave it?

*Comments by Herman P. Spruijt
President International Publishers Association, Geneva
IFLA Conference Milan 24 08 2009*

Love it or leave it? The answer from the international publishing industry perspective is simple: Don't love the settlement, as emotions cloud good judgement. But also: don't leave the settlement, as it will follow you wherever you go.

Instead, all of us must deal with the issues that the Google settlement raises. In a way the Google Settlement sends us the message, that there are certain issues which need to be addressed, and these issues will not go away, even if the Google settlement should disappear. And let's not speculate on that not-unreal possibility.

There are many other countries, initiatives and technological developments show that we need to address these issues, and find solutions.

Currently I see three issues:

- a. The issue of digitisation of orphan works
- b. The development of the digital marketplace for in-copyright works
- c. The role of search engines like Google

Regarding the digitisation of orphan works:

We all agree that this should be done. This has effects on copyright law and on the businesses both of libraries and of publishers, booksellers and authors. On the legal side the debate has been rather thorough. There are a number of joint statements out there, including by IFLA, IPA and STM. All point in the same direction: digitisation must be possible but the rules should be set in such a way that the principle balance between rightsholders, their commercial partners and the user community are not unfairly disrupted.

Pilots and projects are under way, and Google is by far not the only show in town, even though it is of course the biggest.

Of course, there are great resources involved, both human and financial. There are networking opportunities, and international opportunities for savings. At the same time, because we are talking about works in copyright, this is an area where library activities and publishing activities converge and even overlap.

The development of the digital market place:

This brings me to my second point, the digital market place: it is the digitisation which is making it possible to kindle (if you do not mind the word play) the interest in these works. But if there is an interest, and if there is ongoing copyright protection, then we should find fair and balanced solutions which compensate rightsholders.

The role of Google:

Google has become dominant in *many* areas of our lives. We are allowing Google to do things, often unwittingly, that we would never allow any government or public institution to do: to gather data *on* us, *from* us, or from our *activities*, that

reach deep into our personal, political, intimate lives. This is an issue of deep concern, but it is an issue that should touch all of us as net citizens, publishers, librarians and all the other organisations that care about freedom of information, freedom of speech, and indeed, freedom of thought.

Publishers concerns:

As publishers we have more mundane, but equally important concerns. We are concerned that the Google settlement will create two new monopolists: Google as a distribution channel and market place for digital books, and the Book Rights Registry, as the clearance organisation that manages the author and publisher interests. To put it mildly: we do not yet see that all relevant interests of international, non US publishers are duly represented in this organisation.

We feel in the International Publishers Association that it would be short-sighted to look at the Google settlement only in terms of financial or other benefits.

The question is: will it enable or will it weaken authors and their partners to manage the destiny of their own works, following their very own set of commercial interests or ethical values. Can the Google settlement encourage experimentation and diversity in the emerging digital market place? Or will it suffocate it?

This is the question that publishers debate. There is not a single opinion, and only time will tell whether this settlement enables the 'bibliodiversity' we all want in the future.